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EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 28th July, 2006:—

BILL NO. 141 OF 2005

A Bill to provide for compulsory registration of marriages in India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Registration of Marriages Act, 2005.

Short title and commencement.

(2) It shall come into force at once.

2. Every marriage performed after the commencement of this Act under any law for the time being in force in India or under any custom or usage having the force of law shall be compulsorily registered.

Compulsory registration of marriage.

3. The marriages shall be registered—

Authority for registration of marriages.

(i) in the office of Panchayat in the rural areas;

(ii) with the Sub-Registrar or Tehsildar, or such Municipal Authority, who may be authorised by the State Government in this behalf, in the urban areas:

Provided that where there is no Panchayat, the marriages shall be registered with the nearest Sub-Registrar or Tehsildar who may be authorised in this behalf.

Particulars of marriage.

4. (1) The particulars of the marriage to be entered in the marriage register to be maintained by the Panchayat, Sub-Registrar or Tehsildar or Municipal Authority, as the case may be, and the form and manner in which such particulars shall be entered, shall be prescribed by the respective State Governments.

(2) The State Government shall also prescribe the documents relating to marriage to be furnished at the time of registration for record.

(3) The particulars/documents relating to marriage, to be prescribed by the State Government, required to be furnished for registration, shall include the following, namely:—

- (a) the names and addresses of the bride, bridegroom and their parents;
- (b) the age of the bride and the bridegroom with documentary proof thereof;
- (c) photographs of the married couple and marriage ceremony;
- (d) invitation card, if printed, for the marriage;
- (e) an inventory of gifts received by the bride and the bridegroom from the time of betrothal till the completion of marriage;
- (f) an affidavit stating the share of the bride in her parents' property till the date of her marriage with an assurance to ensure her claim on her share in the property earned after her marriage; and
- (g) a statement of expenses incurred by both the parties for marriage ceremony including betrothal.

Declaration at the time of registration.

5. (1) The bride, the bridegroom and their parents or guardians shall make a declaration at the time of registration of the marriage in the form of an affidavit, to be prescribed by the Central Government, that they have not violated any provision of any existing law relating to marriage, prohibition of dowry and prohibition of polygamy, applicable to them.

(2) A person making a false declaration under sub-section (1) shall be punishable with imprisonment which may extend to two years but which shall not be less than six months.

Duty of parents, etc. to registration and penalty for failure.

6. (1) It shall be the duty of the bride, the bridegroom and their parents or guardians to get the marriage registered within ten days of the date of solemnisation of the marriage.

(2) In case the parents or the guardians of the bride and the bridegroom fail to apply for the registration of the marriage and to furnish the necessary particulars/documents within the prescribed time, they shall be liable to pay a fine which may extend to five hundred rupees:

Provided that if the application for registration is not made and the necessary particulars/documents are not furnished within thirty days after the date of marriage, they shall be liable to pay further fine of five hundred rupees per week after the expiry of the aforesaid thirty days.

Legal status.

7. Notwithstanding anything contained in any other law for the time being in force, a marriage which is not registered under this Act, shall not be treated as a valid marriage and shall be declared as null and void.

Power to make rules.

8. The Central or a State Government, as the case may be, may frame rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The security and sanctity of marriage is fast diminishing. Number of dowry deaths or suicides due to mental and physical torture inflicted on young wives is increasing at an alarming rate. Women are either abandoned or deceived and lured into marrying illegally, contravening the law relating to prohibition of polygamy.

There is an urgent need to protect women from destitution, polygamy and economic insecurity.

This Bill seeks to achieve these objectives.

NEW DELHI;
November 11, 2005

SUBODH MOHITE

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central and the State Governments to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, *e.g.*, particulars/documents relating to marriage to be furnished at the time of registration of marriage, the delegation of legislative powers is of a normal character.

BILL NO. 142 OF 2005

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 2005.

Amendment
of section 2.

2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), 2 of 1974.
in section 2, after clause (w), the following clauses shall be inserted, namely:—

“(wa) ‘Tribunal’ means a Criminal Offences Claims Tribunal constituted under Chapter IIIA;

(wb) ‘victim’ means a person who, individually or collectively has suffered physical or mental injury or loss or damage to property or substantial impairment to his fundamental rights, through acts of commission or omission by any person in violation of any law in force or a victim of any offence under the Indian Penal Code and includes the immediate family or dependants in the case of death of a victim;”.

3. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

Insertion of
new Chapter
III A.

“CHAPTER IIIA

CRIMINAL OFFENCES CLAIMS TRIBUNALS

35A. (1) Every State Government and Union territory administration shall, by notification in the Official Gazette, constitute one or more Tribunals to be known as the Criminal Offences Claims Tribunal for such areas in the respective State or the Union territory as may be specified in the notification, for the purpose of adjudicating upon claims of a victim for compensation in respect of offences involving death of, or bodily or mental injuries to persons or damages to his property or mental, social or political activities.

Setting up of
criminal
offences
claims
tribunals.

(2) A Tribunal shall consist of such number of members as the State Government or the Union territory administration may deem fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof.

(3) A person shall not be qualified for appointment as the member of a Tribunal unless he—

(a) is, or has been, a judge of a High Court, or

(b) is qualified for appointment as a Judge of the High Court.

(4) Where two or more Tribunals are constituted for any area, the State Government or the Union territory administration may, by a general or special order, regulate the distribution of business among such Tribunals.

35B. (1) An application for compensation arising out of an offence specified in sub-section (1) of section 35A may be made—

Application for
compensation.

(a) by the person who has sustained the injury; or

(b) where death has resulted by the offence, by all or any of the legal representatives of the deceased; or

(c) by an agent duly authorised by the person injured or by all or any of the representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives, who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made to the Tribunal having jurisdiction over the area in which the offence has taken place and shall be in such form and shall contain such particulars as may be prescribed.

(3) No application for compensation under this section shall be entertained unless it is made within six months of the occurrence of the offence:

Provided that the Tribunal may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented from making the application in time.

35C. On receipt of an application made under section 35B for compensation, the Tribunal shall, after giving the parties an opportunity of being heard, make an interim award based on its subjective satisfaction of the urgency in the matter and after recording the reasons in writing and holding an inquiry into the claim shall make a final award determining the amount of compensation, which appears to it to be just, and specifying the person or persons by whom and to whom it shall be paid, and in making the award the Tribunal shall specify the amount and also the method of payment to and distribution among the claimants.

Award.

Payment of
award by
accused.

35D. The compensation, as awarded under section 35C, shall be payable by an individual or individuals, if he or they have been found guilty of an offence under sub-section (1) of section 35A by the Tribunal to the victim.

Compensation
to be
collected as
arrear of land
revenue.

35E. Where the compensation has not been paid to the victim by the person responsible to pay such compensation under section 35D, the Government concerned shall take such steps as it deems fit to collect the money as an arrear of land revenue from the person and pay the same to the victim.

Government
to pay com-
pensation in
case of failure
by accused.

35F. Where the persons responsible to pay compensation under section 35D, is not in a position to do so, the State Government or the Union territory Government, as the case may be, shall pay the compensation, awarded under section 35C, to the victim, out of a Fund to be constituted for the purpose.

Procedure for
inquiry.

35G. (1) In holding any inquiry under section 35C, the Tribunal may, subject to any rules that may be made in this behalf, follow such summary procedure as it deems fit.

(2) The Tribunal shall have all the powers of a civil court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the production of documents and material objects and for such other purposes as may be prescribed.

(3) Subject to the rules that may be made in this behalf, the Tribunal may, for the purpose of adjudicating upon any claim for compensation, request one or more persons possessing special knowledge of any matter relevant to the injury, to assist it in holding the inquiry.

Appeal.

35H. (1) Subject to the provisions of this Chapter, any person aggrieved by an award of Tribunal, may, within ninety days from the date of award, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) No appeal shall lie against an award of a Tribunal if the amount in dispute in the appeal is less than five thousand rupees.

Criminal
courts not to
have jurisdic-
tion.

35I. Where any Tribunal has been constituted for any area, no criminal court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Tribunal for that area, and no injunction in respect of the claim for compensation shall be granted by the criminal court.

Rules.

35J. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the appointment, salary, allowances, conditions of service, etc. of the members of the Tribunal;

(b) the form of application for claims for compensation and the particulars it may contain; and the fees, if any, to be paid in respect of such applications;

(c) the procedure to be followed by the Tribunal in holding an inquiry under this Chapter;

(d) the powers vested in a civil court which may be exercised by a Tribunal;

(e) the form and manner in which and the fees, if any, on payment of which an appeal may be preferred against an award of a Tribunal; and

(f) any other matter which is to be, or may be, prescribed."

STATEMENT OF OBJECTS AND REASONS

Crimes are being committed and offenders are tried throughout the civilised world. Some of the accused persons are acquitted not entirely on the basis of the facts of the case but due to the benefit of doubt given to them.

While the rights of the accused are well protected under law, the victims of offences are left helpless and unprotected. The civil law open to them is costly, indirect, cumbersome and long drawn. The importance and necessity of providing a cheap and immediate relief to the helpless victims of crime was recognised world wide and the United Nations Congress on the Prevention of Crime and treatment of Offenders, has recommended that the rights of the victims should be protected and that the Government concerned should ensure payment of compensation to the victims.

Hence this Bill.

NEW DELHI;
November 11, 2005

SUBODH MOHITE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every State Government and Union territory administration shall constitute one or more Criminal Offences Claims Tribunals for the purpose of disposing of claims for compensation made by victims of offences like death, physical or mental injury, etc. The tribunal shall consist of such number of members as may be deemed fit by the Government concerned. It further provides that where the person responsible to pay compensation awarded by a Tribunal is not in a position to pay the victim, the Government concerned shall pay such compensation out of a Fund to be constituted for the purpose. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India in constitution of Tribunals, payment of salaries and allowances of the members and in constitution of the Fund, in respect of Union territories. As far as State Governments are concerned, the expenditure will be met from the Consolidated Funds of respective States. It is likely to involve an annual recurring expenditure of about rupees five crore.

It is also likely to involve a non-recurring expenditure of about rupees five crore from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to the matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 145 OF 2005

A Bill further to amend the Cinematograph Act, 1952.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Cinematograph (Amendment) Act, 2005.

(2) It shall come into force at once.

Amendment
of Section 5B.

2. In section 5B of the Cinematograph Act, 1952, the sub-section (2) shall be re-numbered as sub-section (3) and before sub-section (3) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) A film shall not be certified for public exhibition if it depicts scenes involving:—

- (i) wastage/damage of food items, edibles, fruits/vegetables, milk, etc.
- (ii) loss of crops;
- (iii) damage to or burning of public property;
- (iv) tearing of currency notes, damage of books and stationery; and
- (v) tearing and burning of clothes.”.

STATEMENT OF OBJECTS AND REASONS

India is the largest film producer in the world. Some of the films depict scenes involving damage of food items, public property, crops etc. India is a poor country. Crores of people go without food every day. And in films food items in large quantities are wasted/damaged just for the sake of fun for a few minutes. Such scenes should not be allowed to be depicted in films.

Moreover, scenes depicting tearing of currency notes, etc. are disrespectful and in bad taste.

Therefore, it is proposed to amend the Cinematograph Act, 1952 with a view to provide for strict guidelines in case of certification of films.

NEW DELHI;
November 11, 2005

SUBODH MOHITE

BILL NO. 144 OF 2005

A Bill to establish an Indian Medicines Development Corporation to promote the development of Indian system of medicine and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (i) This Act may be called the Indian Medicines Development Corporation Act, 2005.

(ii) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires:—

(i) "Corporation" means the Indian Medicines Development Corporation set up under section 3;

(ii) "Indian System of medicine" means and includes Ayurvedic, Unani, Naturopathy, Siddha, Homoeopathy, Electropathy, and such other system of medicine as may be recognised as Indian System of medicine; and

(iii) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall establish a Corporation to be known as "Indian Medicines Development Corporation" with its headquarters at Nagpur.

Establishment of Indian Medicines Development Corporation.

(2) The Corporation may set up offices and branches at any other place as the Corporation may deem fit.

4. (1) The paid up capital of the Corporation shall be rupees ten thousand crore.

Paid up capital of the Corporation.

(2) The Central Government may from time to time increase the paid up capital of the Corporation to such extent and in such manner as the Government may determine.

(3) Such capital may be provided by the Central Government from time to time after due appropriation made by Parliament by law for the purpose and subject to such terms and conditions as may be determined by that Government.

5. (1) The general superintendence, direction and management of the affairs and business of the Corporation shall vest in a Board of Directors and the Board of Directors may exercise all such powers and perform such functions as may be exercised or, performed by the Corporation under this Act.

Functions of the Board of Directors.

(2) The Board of Directors, in discharging its functions, shall act on business principles, having regard to the interests of the Corporation and shall be guided by such instructions on questions of policy as may be given in writing to it by the Central Government.

(3) If any doubt arises as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

6. (1) The Board shall consist of:—

(i) a Chairman who shall be an expert in Indian system of medicine;

(ii) five members to represent each system of medicine; and

(iii) one member to represent environment and forests to be appointed by the Central Government.

(2) The Chairman and other members of the Board shall constitute the Board of Directors and hold office for a term of five years from the date of their appointment.

(3) The Central Government shall appoint one person from amongst the Board of Directors as the Managing Director.

(4) The Chairman and other members shall be entitled to such salaries and allowances as may be prescribed.

7. A person shall be disqualified for being appointed as, and for being, a Chairman or Director of the Board:—

Qualification for appointment.

(a) if he is, or at any time has been adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(b) if he is of unsound mind and has been so declared by a competent court; or

(c) if he is or has been convicted of any offence which in the opinion of the Central Government involves moral turpitude; or

(d) if he has been removed or dismissed from service of the Government or a corporation owned or controlled by the Government; or

(e) except in the case of the Chairman or the Managing Director, if he is a salaried official of the Government or a Corporation owned or controlled by the Government.

8. (1) The Central Government may, at any time, after consultation with the Board, remove the Managing Director from the office after giving him a reasonable opportunity of showing cause against the proposed removal.

Removal from office.

(2) The Board of Directors may remove any director from office who—

(a) is or has become subject to any of the disqualifications mentioned in section 7; or

(b) is absent, without leave of the Board of Directors from more than three consecutive meetings thereof without sufficient cause, in the opinion of the Board, to exonerate his absence.

(3) The Chairman or a Director of the Board may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

Meeting of
the Board of
Directors.

9. (1) The Board of Directors of the Corporation shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings including the quorum at meetings, as may be provided by regulations made by the Corporation under this Act.

(2) The Chairman of the Board, if for any reason is unable to attend any meeting, any other director elected by the directors present at the meeting shall preside over such meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the directors present and voting, and in the event of an equality of votes, the Chairman, or in his absence the person presiding over the meeting shall have and exercise a second or casting vote.

Advisory
Committee.

10. (1) The Central Government may, in consultation with the Board by notification in the Official Gazette, constitute one or more Advisory Committees consisting of such persons and on such terms and conditions as may be prescribed.

(2) It shall be the duty of the Advisory Committee so constituted to advise the Central Government or the Corporation in regard to any matter connected with the purpose of this Act in respect of which its advice is sought by the Central Government, or by the Corporation, as the case may be.

(3) The expenses in relation to the Advisory Committees shall be met by the Corporation.

Secretary and
other officers.

11. (1) The Central Government shall, except in the case of initial constitution of the Board, after consultation with the Corporation, appoint a person to be the Secretary of the Corporation.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Corporation may appoint such other officers and employees as it may consider necessary for the efficient performance of its functions.

(3) The method of appointment, conditions of service and the scales of pay of the officers and other employees of the Corporation shall:—

(a) in respect of the Secretary, be such as may be prescribed by the Central Government;

(b) in respect of the officers and employees, be such as may be determined by regulations made by the Corporation under this Act.

Functions.

12. The Corporation shall perform the following functions, namely:—

(i) to identify and locate herbal plants which are necessary for manufacture of medicine;

(ii) to protect herbal plants area;

(iii) to manufacture and process Indian system of medicine;

- (iv) to distribute and set up outlets for selling Indian system of medicine;
- (v) to extend financial and technical assistance to persons involved in research in Indian system of medicine;
- (vi) to export medicines based on Indian system; and
- (vii) to advocate the extensive use of Indian system of medicine.

13. The Corporation may request any State Government to vest in it any forest area or other area containing herbal plants at an agreed price.

Acquisition
of area
containing
herbal plants.

14. The Corporation shall maintain correct accounts of its income and expenditure in such form and in such manner as may be prescribed.

Maintenance
of accounts.

15. (1) The accounts of the Corporation shall be audited by auditors who are qualified as auditors of companies under the law for the time being in force relating to companies, and the auditors shall be appointed by the Corporation with the previous approval of the Central Government and they shall receive such remunerations from the Corporation as the Central Government may prescribe.

Audit.

(2) Every auditor while performing his duties shall have at all reasonable times access to the books, accounts and other documents of the Corporation and may for the purpose of the audit, call for such explanation and information as he may require or may examine any principal or other officer of the Corporation.

(3) The auditors shall submit their report together with an audited copy of the accounts of the Corporation and shall also forward a copy thereof to the Central Government.

16. The Corporation shall, at intervals of five years, cause an investigation to be made by the actuaries into the financial condition including the valuation of its assets and liabilities and submit the report of the actuaries to the Central Government.

Investigation
by the
actuaries.

17. The Corporation shall, as soon as may be, after the end of each financial year prepare and submit to the Central Government in such form and in such manner, as may be prescribed, a report giving an account of its activities during the previous financial year, and an account of the activities, if any, which are likely to be undertaken by the Corporation in the current and the immediately following financial year.

Annual Report
to the Central
Government.

18. The Central Government shall cause the report of the auditors under section 15, the report of the actuaries under section 16 and the report giving an account of the activities of the Corporation under section 17 to be laid before both the Houses of Parliament, as soon as may be, after each such report is received by the Central Government.

Reports to be
laid before
both Houses
of Parliament.

19. (1) The Chairman and every Director of the Board shall be indemnified by the Corporation against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as are caused by his own wilful act or default.

Indemnification
of acts.

(2) Any Director of the Board shall not be responsible for the acts of any other Director or of any other officer or other employee of the Corporation, or for any loss or expenses caused to the corporation from the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Corporation or the insolvency or wrongful act of any debtor or any person under obligation to the Corporation or anything done in good faith in the execution of the duties of his office or in relation thereto.

20. No suit or prosecution or other legal proceedings shall lie against the Chairman or any director of the Board or any employee of the Corporation for anything which is, in good faith, done or intended to be done in pursuance of this Act.

Act done in
good faith.

21. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to
make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provided for the following matters, namely:—

(a) the term of office of and the manner of filling casual vacancies among, and the other terms and conditions of appointment of the directors of the Corporation;

(b) the composition of Advisory Committees and the terms and conditions of service of members thereof;

(c) the additional functions which the Corporation may perform;

(d) the remuneration of fees payable to the members of the Board of Directors and the term of office of, and the manner of filling casual vacancies among such members;

(e) the manner in which the Corporation may invest its funds;

(f) the form of the annual statement of accounts and the balance sheet to be prepared by the Corporation; and

(g) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government under this section, and any modification thereto shall be laid as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

Power to make regulations.

22. The Corporation may, subject to the condition of previous publication and with the previous approval of the Central Government, by notification in the Gazette of India, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In the ancient times, India has been the leader in the medicines. Several systems, mostly indigenous, were used to cure diseases. Many herbal plants were used for manufacture of medicines. Later allopathy system of medicine came into being. Allopathy system being mostly of chemicals has its own effects while temporarily curing diseases.

While Indian system of medicine provides permanent relief, allopathy system provides only temporary relief. Moreover, allopathy system has its own side effects which spoil the body system. Further the system is costlier also and poor people cannot afford to use this system.

India has immense resources of herbal plants. They have not been properly explored and exploited. It is a sad commentary that many American and European countries have obtained patent in respect of herbal plants available in our country only. These herbals can cure even serious diseases if properly processed.

India has signed several patent agreements by which our country will have to obtain patent rights to manufacture even ordinary medicines. Therefore, there is every possibility that prices of medicines will shoot up after some years.

India has to wake up from deep slumber. If corrective measures are not taken immediately, other countries will obtain patent rights in respect of our herbals and we may have to pay a huge price for obtaining manufacturing and processing rights.

Moreover, there is a huge potential for export of Indian system of medicines.

Therefore, it is proposed to establish a Corporation exclusively to promote and develop Indian system of medicines.

NEW DELHI;
November 11, 2005

SUBODH MOHITE

FINANCIAL MEMORANDUM

Clause 3 provides for establishment of an Indian Medicines Development Corporation and its offices and branches. Clause 4 of the Bill provides for an initial paid up capital of rupees ten thousand crore for the proposed Indian Medicine Development Corporation. Clause 11 of the Bill provides for appointment of Secretary and other officers of the Corporation. The Bill further provides for appointment of Chairman, Board of Directors, Managing Director, Secretary and other officers. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to incur an expenditure to the tune of about rupees five hundred crore per annum. A non-recurring expenditure of about rupees eleven thousand crore will also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Clause 22 empowers the Corporation to frame regulations. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 152 OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2005.

Insertion of
new article
335A.

2. After article 335 of the Constitution, the following article shall be inserted, namely:—

Reservation for
Scheduled Castes,
Scheduled Tribes
and Other Back-
ward Classes in
private sector.

"335A. Parliament may by law provide for reservation of posts and appointments in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes in private sector through provision of suitable concessions and disincentives in case, of non-compliance to the private sector."

STATEMENT OF OBJECTS AND REASONS

In the era of globalisation and privatisation the job opportunities in public sector are shrinking. On the other hand, role of private sector in our economy is increasing and new avenues for jobs are increasing manifold in private sector. Shrinking job opportunities in public sector are creating hardship to the persons belonging to the Scheduled Castes, Scheduled Tribes and other weaker sections of the society. At present there is no legislation to provide reservation for weaker sections of the society in private sector. Providing employment to weaker sections through reservation is also a means to improve their socio-economic condition. Therefore, it is proposed to enable the Government to make provision for reservation in jobs in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes in private sector by giving suitable incentives to the private sector to promote the interests of weaker sections of the society.

NEW DELHI;
November 23, 2005

CHENGARA SURENDRAN

BILL NO. 156 OF 2005

A Bill further to amend the Constitution of India.

BE It enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of article 341.

2. In article 341 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

“(1) The President may, by public notification, specify the castes, races or tribes or parts of or groups within castes, races, tribes which shall for the purpose of the Constitution be deemed to be Scheduled Castes in relation to the whole of the territory of India.”

Amendment
of article 342.

3. In article 342 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

“(1) The President may, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purpose of the Constitution be deemed to be Scheduled Tribes in relation to the whole of the territory of India.”

STATEMENT OF OBJECTS AND REASONS

The persons belonging to Scheduled Castes are still under privileged and are a neglected lot. There have been constant efforts to provide concessions and facilities to these persons by successive Governments. But still much is required to be done for improving their condition and for bringing them into the mainstream of the society.

At present, the persons belonging to the Scheduled Castes are facing some practical and genuine difficulties which need immediate solution. In every State, caste certificates are issued by the district authority. These certificates are recognized for the purpose of extending reservation benefits by the State Government concerned throughout the State. The Union Government also recognizes the certificates issued by the State Government for the purpose of jobs or appointments in services under the Union Government. However, if a person belonging to a Scheduled Caste or a Scheduled Tribe moves out of the State he originally belongs to and settles down permanently in another State, the caste or tribe certificate issued by his parent State is not recognized for the purpose of giving benefits of reservation by the State where they have settled down, though the same caste or tribe has been included in the list of Scheduled Castes or Tribes in that State.

Due to lack of employment opportunities, people migrate to other States in search of employment and settle down there permanently. However, they become ineligible to enjoy the benefits of reservation in the State they have settled down for the reason that they have been issued certificates by the State from where they have migrated.

It is, therefore, necessary to amend the Constitution with a view to make provision that a member of Scheduled Caste or Scheduled Tribe in one State shall be treated as Scheduled Caste or Scheduled Tribe for the purpose of availing benefits of reservation in whole of India.

NEW DELHI;
November 23, 2005

CHENGARA SURENDRAN

BILL NO. 6 OF 2006

A Bill to provide for certain welfare measures for tailoring workers and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Tailoring Workers (Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Fund" means the Tailoring Workers Welfare Fund constituted under section 3 of this Act;

(b) "prescribed" means prescribed by rules made under this Act; and

(c) "tailoring workers" means any person engaged in any activity connected with cutting and stitching of clothes, embroidery and includes self-employed or persons working on salary or commission or on contract basis.

3. (1) The Central Government shall set up a fund to be known as the Tailoring Workers Welfare Fund for the welfare of tailoring workers in the country.

Setting up of
Tailoring
Workers
Welfare Fund.

(2) The Central Government and every State Government/Union territory Administration shall contribute to the Fund in such ratio as may be prescribed.

(3) The owners of textile mills and showrooms where readymade garments are sold and exporters of readymade garments shall also contribute to the Fund in such proportion as may be prescribed by the Central Government.

4. The Fund shall be administered by a Committee consisting of:—

Administration
of Tailoring
Workers
Welfare Fund.

(i) a Chairman who shall be appointed by the Central Government;

(ii) one member to represent the Central Government who shall be designated as the member secretary;

(iii) two representatives representing the tailoring workers; and

(iv) one representative each from all States/Union territories who shall be nominated by the respective State Government/Union territory Administration.

5. The Fund shall be used for the following purposes, namely:—

Utilisation of
Fund.

(i) to pay unemployment/subsistence allowance to tailoring workers during off season period;

(ii) to provide free health facilities for the workers and their families;

(iii) to provide free educational facilities to the children of the workers;

(iv) to pay compensation to workers who are injured during the course of their work;

(v) to pay compensation to the next of the kin of workers who die in harness;

(vi) to pay disability allowance to workers who are injured in accidents or contract ailments during the course of their work and are not able to work;

(vii) to pay old age pension to those workers who have attained the age of sixty years; and

(viii) to pay family pension.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

Lakhs of workers are engaged in the work related to embroidery, cutting and stitching of clothes throughout the country but they are not covered under any labour laws. Many of them are self employed or working in the commercial establishments and also in textile industry. Their living condition is extremely bad. The nature of their work is such that they are prone to severe ailments such as tuberculosis, etc. In case of ill health or old age, there is no social security provision for them. It is therefore, necessary to give social security to tailoring workers and their dependents.

Hence this Bill.

NEW DELHI;
December 9, 2005.

P. KARUNAKARAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of the Tailoring Workers Welfare Fund for the welfare of tailoring workers in the country. It further provides that Central Government shall also contribute to the fund. Clause 4 provides for the setting up of a Committee for administration of the Fund. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum. A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 53 OF 2006

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Act, 2006.

Short title.

45 of 1860.

2. In the Indian Penal Code, 1860, after section 382, the following section shall be inserted, namely:—

Insertion of new section 382A.

“382A. Whoever commits or attempts to commit theft in any means of transportation, whether public or private, by administering in any manner any eatable or drinks or any other thing which has the effect of intoxicating one or more persons travelling in that means of transportation, shall be punished with imprisonment for life, or with rigorous imprisonment for a term not less than seven years but which may extend to ten years, and shall also be liable to fine.”

Theft after offering eatables or drinks having intoxicating effect during travelling.

STATEMENT OF OBJECTS AND REASONS

There has been a rampant increase in incidents of theft or “thuggi” during the course of travel by roadways and railways. Innocent passengers are offered eatables or drinks mixed with intoxicants by “thugs” with the intention of stealing their baggage and belongings. Many a times, passengers who become prey to the “thugs” fall unconscious and battle for their lives to gain consciousness and in many cases they also die .

The provisions in the Indian Penal Code, 1860 are not adequate to put stringent restraints on such acts of “thuggi”. It is, therefore, necessary that the law should be amended to provide stringent punishment for offences of theft committed by offering eatables or drinks mixed with intoxicants to innocent passengers while travelling by road and rail.

NEW DELHI;
January 31, 2006

BACHI SINGH RAWAT

BILL No. 52 OF 2006

A Bill further to amend the Wild Life (Protection) Act, 1972.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Wild Life (Protection) Amendment Act, 2006.

Short title.

53 of 1972

2. Section 9 of the Wild Life (Protection) Act, 1972, shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

Amendment
of section 9.

"(2) Nothing in sub-section (1) shall apply to the hunting of the wild pig (*Sus scrofa*) in relation to the State of Uttaranchal."

STATEMENT OF OBJECTS AND REASONS

The Wild Life (Protection) Act, 1972 has been enacted with the purpose of preserving and protecting the wild life in the country. Section 9 of the Act prohibits hunting of wild animals specified in the Schedules to the Act. At the same time, section 11 of the Act permits hunting of wild animals in certain cases. Clause (b) of sub-section (1) of section 11 empowers the Chief Wildlife Warden or the authorized officer to permit any person to hunt such wild animal or cause such wild animal to be hunted as has become dangerous to human life or to property including standing crops on any land.

Wild pigs are found in the forests in the State of Uttaranchal and they have become a great threat to the human life and cause a great damage to the agriculture. As the wild pigs multiply quickly, their number has increased alarmingly. The Wild Life Protection Act prohibits the hunting of wild pig. Therefore, the villagers in the State of Uttaranchal are helpless when these pigs enter their fields and damage their crops. In many cases, when villagers tried to shoo away these pigs out of their fields, the pigs attacked them thereby putting their lives to threat. It is, therefore, necessary that the Act should be amended so as to permit hunting of wild pigs in the State of Uttaranchal.

Hence this Bill.

NEW DELHI;
January 31, 2006.

BACHI SINGH RAWAT

BILL NO. 54 OF 2006

A Bill to prevent female infanticide.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Female Infanticide Act, 2006.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,

Definitions.

(i) "girl child" means a girl upto the age of ten years; and

(ii) "prescribed" means prescribed by rules made under this Act.

3. Whoever causes, or does any act with the intention of causing death of a girl child or allows a sick girl child to die by deliberately not giving timely and proper medical assistance or does any act or neglects the care of the girl child which may result in her death, commits the offence of female infanticide.

Female
infanticide.

Information about birth or death of a girl child to be given to authorities.

4. (1) Whenever a girl child is born or a girl child below ten years of age dies, it shall be the duty of the parents or the guardian of the child to inform the nearest health centre, run by the Government or such authority as may be prescribed for this purpose, about the birth or death of the girl child.

(2) In case of death of a girl child, the child shall not be cremated or buried unless the health centre or such other authority as may be prescribed for this purpose, has caused an investigation into the cause of the death of the child.

(3) The investigation under sub-section (2) shall be completed within twenty-four hours from the time information about death is received.

Arrest of person committing female infanticide.

5. If, after a preliminary investigation into the cause of the death of a girl child, any person is found to have committed the offence of infanticide, he shall be taken into custody at once.

Punishment.

6. Any person who commits or abets the commission of the offence of female infanticide or withholds information about the death of the girl child, shall be punished with imprisonment for a period of ten years and also with fine of rupees one lakh:

Provided that any person who withholds information about the birth of a girl child shall be punished with imprisonment for a period of six months.

Investigation and filing of report.

7. Any inquiry or investigation into female infanticide and filing of reports or a suit in a court of law shall be completed within a period of three months from the date of the death of the girl child.

Offence to be non-bailable.

8. An offence under this Act shall be non-bailable.

Act to have over-riding effect.

9. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Indian Penal Code, 1860 45 of 1860. or any other law for the time being in force.

Power to make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

With the menace of dowry system continuing in the country, birth of a girl child in an ordinary family is considered to be very inauspicious and a curse. Birth of a girl child is considered as a burden by poor families. As a result, female infanticide is widely prevalent in the country. Thousands of innocent girls are dying prematurely as a result of inadequate care and indifference on the part of their families. It is high time that this dastardly act is brought to an end. However, in the absence of a stringent legislation it is quite difficult to put an end to this evil practice.

It is, therefore, proposed to bring forward a legislation providing for severe punishment to those who commit female infanticide in order to eradicate this malady from the country.

Hence this Bill.

NEW DELHI;
January 31, 2006.

MOHAN SINGH

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 51 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

- | | |
|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Short title. | 1. This Act may be called the Constitution (Amendment) Act, 2006. |
| Amendment of article 75. | 2. In article 75 of the Constitution, after clause (1B), the following clause shall be inserted, namely:—

“(1C) In the Council of Ministers, not less than three-fourths of the total number of Ministers, shall be appointed from amongst the elected members of the House of the People.”. |
| Amendment of article 164. | 3. In article 164 of the Constitution, after clause (1B), the following clause shall be inserted, namely:—

“(1C) In the Council of Ministers, in States having Legislative Council, not less than three-fourths of the total number of Ministers shall be appointed from amongst the elected members of the Legislative Assembly of that State.”. |

STATEMENT OF OBJECTS AND REASONS

Article 75 of the Constitution lays down that the Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister. An analogous provision also exists in article 164 of the Constitution in respect of Council of Ministers in the States. The said articles also lay down that the Council of Ministers shall be collectively responsible, in the case of Union Government, to the House of the People and, in the case of a State Government, to the Legislative Assembly of that State.

The people of our country elect their representatives to the House of the People and Legislative Assemblies with the objective not only that they would frame and assist the Government in framing laws and policies for the betterment of the country but also with the hope that their directly elected representatives would also be a part of the Government. Various general elections held in the independent India have proved that people vote in favour of a party or alliance of parties which they feel should form the Government. A natural corollary that follows is that the parties or alliance of parties, which the people of this nation have voted to power, should give due representation to their elected representatives in the formation of the Government. No one would dispute that the appointment of Ministers to the Council of Ministers is the prerogative of the Prime Minister who may, in his discretion appoint members of the Upper House in his Cabinet. The discretion, which the Constitution has vested in the Prime Minister, should be reasonably applied and should not be based on whims and caprices. However, of late, a trend has developed wherein Ministers in the Council of Ministers are being appointed from amongst the Members of the Upper House without giving adequate representation to the Members of the Lower House who have been directly elected by the People of the country. The representative character of our democracy and the very objective for which General Elections are held for Lok Sabha and Legislative Assemblies would be reduced to a farce and it would be a fraud on the Constitution if elected representatives of the Party or alliance of parties winning the majority of seats in the general elections are not adequately represented in the Council of Ministers. Even on the basis of strength of the two Houses at the Centre, the ratio of Members of Lok Sabha and Rajya Sabha as Ministers in the Council of Ministers should be 2:1.

In order that the Members of the Lower House to which the Government is collectively responsible are adequately represented in the Council of Ministers at the Union and State level and to ensure that the constitutional provisions are not misused to appoint Ministers from the Upper House on extraneous considerations, it is proposed to amend the Constitution so as to provide that atleast three-fourths of the Ministers in the Government shall be from amongst the elected Members of the Lower House.

Hence this Bill.

NEW DELHI;
January 31, 2006

BACHI SINGH RAWAT

BILL NO. 25 OF 2006

A Bill to provide for the setting up of a National Commission for Horticulture Development and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the National Commission for Horticulture Development Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(i) "Commission" means the National Commission for Horticulture Development set up under section 3 of this Act;

(ii) "horticulture" includes vegetables, fruits and flowers and their products; and

(iii) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall set up a National Commission for Horticulture Development.

National
Commission for
Horticulture
Development.

(2) The Commission shall consist of:

- (i) a Chairman to be appointed by the Central Government;**
- (ii) three members to be appointed by the Central Government; and**
- (iii) one representative of the growers of horticulture.**

(3) The conditions of service, salaries and allowances of Chairman and other members of the Commission shall be such as may be prescribed.

4. The Central Government shall make available necessary officers and staff including technical experts to the Commission for efficient functioning of the Commission.

Central
Government
to provide
officers and
staff for
efficient
functioning
of the
Commission.

5. Every State Government shall send detailed information to the Commission regarding:—

State
Government to
send detailed
information to
Commission.

- (i) the total area under horticulture cultivation;**
- (ii) the product-wise output in horticulture sector;**
- (iii) the estimated annual demand for horticultural products;**
- (iv) the potential of growth of horticultural products;**
- (v) the export potential of horticultural products; and**
- (vi) the potential for setting up of industries based on horticultural products.**

6. (1) The National Commission shall, on receipt of information from a State Government, depute a team of experts to the State to study the situation of horticulture in the State.

Functions
of the
Commission.

(2) The team of experts shall submit a report to the National Commission at the earliest but not later than three months from the date of study tour conducted in that State.

(3) The Commission shall, on the basis of the report submitted by the team of experts, release funds to a State for the development of horticulture including for setting up of industries based on horticultural products.

7. The Central Government shall set up a fund to be known as the Horticulture Development Fund to implement the provisions of this Act.

Horticulture
Development
Fund.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

The importance of horticulture in improving the productivity of the land, generating employment, improving economic conditions of the farmers and entrepreneurs, enhancing exports and most importantly, providing nutritional security to the people is well known. Though India ranks first in the world in the production of vegetables and second in the production of fruits, the situation of industries based on the processing of horticultural products is not encouraging. There is a great potential for growth of horticulture and industries based on processing of horticulture products including their export. But this important sector has not been properly harnessed so far.

It is, therefore, proposed to set up a National Commission for Horticulture for the promotion of cultivation/production of horticultural products and industries based on processing of horticultural products.

The Bill seeks to achieve the above objectives.

NEW DELHI;
February 15, 2006.

K. S. RAO

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the setting up of a National Commission for Horticulture Development. Clause 4 provides that the Central Government shall make available necessary officers and staff for the efficient functioning of the Commission. Clause 6 provides that the Commission shall release funds to States for the development of horticulture. Clause 7 provides for creation of a Horticulture Development Fund. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one thousand crore will be involved.

A non-recurring expenditure of about rupees twenty thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 26 OF 2006

A Bill to provide for environmental clearance required for important infrastructural projects on the basis of self-certification and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Environmental Clearance (Self-Certification) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) “certificate” means a certificate submitted by any authority or organisation under section 4 of this Act;

(ii) “prescribed” means prescribed by rules made under this Act; and

(iii) “project” means and includes any project undertaken by any authority or organisation including a private one, whether in joint venture or individually, for all developmental and infrastructural works relating to communication facilities

construction of roads, manufacturing plants including power plants, railways, projects having strategic importance, dams for irrigation and for providing drinking water, provision of civic facilities, food processing industries, projects in special economic zones, construction of schools and educational institutions.

Organisation not required to get prior environmental clearance.

3. Notwithstanding anything contained in any other law for the time being in force or any judgement of any court or tribunal or judicial authority, no authority or organisation including any private organisation shall require any prior environmental clearance from the Ministry of Environment and Forests of the Central Government or any authority constituted for the purpose for undertaking any project.

Explanation.—For the purposes of this section, the term 'Environment' with its grammatical variations has the same meaning as assigned to it under the Environment (Protection) Act, 1986.

29 of 1986.

Organisations to submit certificate regarding environmental impact.

4. Any authority or organisation undertaking a project shall, before starting work on the project, submit a certificate to the Ministry of Environment and Forests of the Central Government that the project is clear from all angles of environmental aspects and it has satisfied all the norms prescribed for the prevention of environmental pollution.

Government to inspect the project within thirty days

5. (1) As soon as a certificate is received from an authority or organisation, the Ministry of Environment and Forests of the Central Government shall, on its own or through any agency, cause the project inspected at the earliest opportunity but in no case later than thirty days from the date of receipt of the certificate from an organisation.

(2) If, after the inspection, it is found that the authority or organisation has not satisfied the norms prescribed for prevention of environmental pollution, the Government shall issue instructions to the authority or the organisation, as the case may be, to meet the norms and implement the same.

Organisations not to proceed with the project until norms for environment are met.

6. If any authority or organisation does not comply with the directions issued by the Government under section 5, the Government may prohibit the authority or the organisation from proceeding with the project until such time as all norms prescribed for environmental clearance are met.

Government to give clearance as soon as possible.

7. The Government shall give clearance after inspection of a project as soon as possible and the project shall not be completed until and unless a final clearance is received from the Government.

Presumption of clearance if no intimation is received from the Government within three months.

8. If no communication is received from the Government regarding clearance within three months from the date of submission of certificate, it shall be presumed that the clearance has been granted by the Government.

Punishment.

9. If any authority or organisation without having received final clearance from the Government proceeds with the project and completes the same, the Government shall cause the structures removed and any person who is in charge of the project, by whatever name called, shall be punished with imprisonment for a term not exceeding five years or with fine of rupees two lakh or with both.

Power to make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

STATEMENT OF OBJECTS AND REASONS

Environmental clearance is one of the important factors for taking up any project, even if it is for a development related project. This has been ensured to protect the nature and environment. But of late it is seen that timely clearance is not given by the environmental authorities which results in considerable delay in undertaking public developmental works. The very provision which was formulated to protect the public should not come in the way of developmental projects which are intended to benefit public at large. Many a time, due to long delay, the cost of project shoots up manifold.

Therefore, it is proposed that any development work, which is intended for public benefit, may be undertaken on the basis of self-certification without waiting for environmental clearance. At the same time a provision has been made to ensure that clearance by environmental authorities should be given within a fixed time frame. This will ensure that public projects are not stalled for want of clearance and at the same time environmental norms are also followed.

The Bill seeks to achieve the above objectives.

NEW DELHI;
February 15, 2006.

K. S. RAO

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to frame rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 27 OF 2006

A Bill to provide for the setting up of an Infrastructure Development Board for providing infrastructural facilities in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Infrastructure Development Board Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (i) 'Board' means the Infrastructure Development Board set up under section 3;
- (ii) 'infrastructure' means and includes communication facilities, drinking water, roads, electricity, drainage and water harvesting, airports and public transport facilities; and
- (iii) 'prescribed' means prescribed by rules made under this Act.

- 3. (1) The Central Government shall set up an Infrastructure Development Board.** Infrastructure Development Board.
- (2) The Board shall consist of the following:—
- (i) the Prime Minister as its *ex-officio* Chairman;
 - (ii) the Union Ministers of Finance, Civil Aviation, Power, Communications, Road Transport, Urban Development and Water Resources as members;
 - (iii) the Deputy Chairman of the Planning Commission as member;
 - (iv) three experts in the fields of urban development, communications and road transport, respectively, as members; and
 - (v) one representative from each State Government.
- 4. Every State Government shall assess its infrastructure requirements from time to time and submit the same to the Board for its consideration.** State Governments to submit their infrastructure requirements.
- 5. The Board shall perform the following functions,—** Functions of the Board.
- (i) compilation of the infrastructural requirements State-wise;
 - (ii) deputation of team of experts to the States for making ground assessment of their infrastructural requirements;
 - (iii) making recommendation to the Central Government regarding quantum of amount to be provided to a State for improvement in their infrastructure facilities;
 - (iv) determine a time frame within which a project for which fund is released by the Central Government is to be implemented by a State Government; and
 - (v) such other functions as may be assigned to it by the Central Government.
- 6. (1) The Central Government shall constitute a Fund to be known as the Infrastructure Development Fund.** Infrastructure Development Fund.
- (2) The Fund shall consist of contributions made by the Central Government and the State Governments in such proportion as may be prescribed.
- (3) Such other sums as may be received by way of donation, contribution or assistance or otherwise by the Central Government or a State Government shall also be credited to the Fund.
- 7. The Central Government shall, on its own or on the recommendation of the Board, release funds to the States for creation and improvement of infrastructural facilities.** Central Government to release funds.
- 8. The Board shall meet as often as it considers necessary but there shall not be a gap of three months between its two consecutive meetings.** Board to have regular meetings.
- 9. The appropriate Government shall ensure that every infrastructure project is completed within the time frame fixed by the Board.** Appropriate Government to ensure timely completion of infrastructural projects.
- 10. The Central Government shall lay before each House of Parliament, an annual report giving full account of implementation of this Act.** Laying of Annual Report.
- 11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.** Power to make rules.

STATEMENT OF OBJECTS AND REASONS

The condition of infrastructural facilities in our country is pathetic. For a huge country like ours, the availability is far below requirement. The population is increasing at a high rate and the pressure on the urban infrastructure is so immense that a breakdown seems imminent. A time bound programme to create new infrastructure and improve existing infrastructure is required in order to make our country strong and competitive in world market. Only those countries can progress which have developed sound infrastructure. China is an example of this.

The State Governments do not have enough resources to build infrastructure on their own. The Central Government need to come to their assistance in this regard.

Hence this Bill.

NEW DELHI;
February 15, 2006.

K. S. RAO

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for the constitution of an Infrastructure Development Board. Clause 6 of the Bill seeks to constitute an Infrastructure Development Fund. Clause 7 provides that Central Government shall release funds to the States for creation of infrastructural facilities. Therefore, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely that an annual recurring expenditure of about rupees fifty thousand crore may be incurred.

A non-recurring expenditure of about rupees one lakh crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 28 OF 2006

A Bill to provide for the setting up of an Authority to regulate prices of various commodities and services in the country and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Price Regulatory Authority Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(i) "appropriate Government" means a State Government or the Central Government, as the case may be;

(ii) "commodities" includes milk, rice, wheat, tea, coffee, pulses, edible oils, cosmetics, health products, medicines, all types of commercial crops, cotton, sugar, salt, packed foods including water, aerated drinks, stationery items, items required for the use of infants and children and cement and other construction materials;

(iii) "prescribed" means prescribed by rules made under this Act; and

(iv) "service" includes banking, courier and cargo, dry cleaning, servicing of electronic goods, medical service, cable television, internet and broad band service.

Price
Regulatory
Authority.

3. (1) The Central Government shall set up an Authority to be known as the Price Regulatory Authority.

(2) The Authority shall consist of:

(i) a Chairman to be appointed by the Central Government;

(ii) four members who are experts in the field of commodities and services; and

(iii) one representative of every State Government.

(3) The terms and conditions of service, salaries and allowances of members referred to in sub-clause (i) and (ii) of sub-section (2) shall be such as may be prescribed.

Functions of
the Authority.

4. (1) The Authority shall fix the maximum price of each commodity and service, both quality and location-wise.

(2) Before fixing the price of commodities and services under sub-section (1), the authority shall take into account:—

(i) the supply and demand of every commodity;

(ii) the quality of services;

(iii) the price and availability of similar products in international market; and

(iv) the export potential of the commodity.

(3) The Authority shall review the price structure of every commodity and service keeping in view the demand and supply of a commodity/service at the end of every year and also at such other times as it considers necessary.

(4) The Authority may fix a different price of a good or commodity for different States in accordance with such factors as it may deem fit to consider.

Wide publicity
to be given to
price structure
fixed by the
Authority.

5. The Authority shall cause the price structure given wide publicity throughout the country, through such means as it may deem fit.

No seller to
sell at prices
higher than
the maximum
price.

6. No seller shall sell any commodity or offer any service at a price more than the price fixed by the Authority for that commodity or service.

Punishment.

7. If any person violates the provisions of this Act, he shall be punished with fine which may extend to rupees fifty thousand.

Power to
make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

STATEMENT OF OBJECTS AND REASONS

The prices of all the commodities are on the increase. The increase is not just restricted to seasonal commodities but also to items of daily use. Sellers sell their products at their whim and fancy. They inflate the prices to increase their profit. There is no check on the pricing of any product. Only on few items, the maximum retail price is displayed.

Even in respect of services there is no correlation between the quality of service and the price charged. Since, a service cannot be quantified, price is fixed according to the wishes of the provider.

Therefore, it is proposed to regulate the prices of all commodities and services.

The Bill seeks to achieve the above objectives.

NEW DELHI;
February 15, 2006.

K. S. RAO

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Price Regulatory Authority to determine the price of each commodity and service. Clause 5 provides that the Authority shall give wide publicity to prices fixed by it. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one crore is likely to be involved.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 40 OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2006.
2. In article 217 of the Constitution, in clause (1), for the words “sixty-two years”, the words “sixty-five years” shall be substituted.

Short title.

Amendment
of article
217.

STATEMENT OF OBJECTS AND REASONS

Like all institutions of governance, the judiciary too requires a periodic dose of institutional reforms to keep pace with the societal demands. From time to time several steps have been taken to improve and strengthen judicial process and to modernise the judiciary in the country.

At present, the age of retirement for the judges of the High Court is sixty-two years whereas it is sixty-five years for the judges of the Supreme Court. It has been observed that many High Court judges have after retirement been appointed as members or Chairmen of various tribunals and have continued to function till the age of sixty-five years. A fair number of retired High Court judges can be seen as practicing advocates in the Supreme Court. With the rise in the average life expectancy in the country it is desirable that the age of retirement for the High Courts judges should be raised. A judge of the High Court, if appointed as a judge of the Supreme Court, can continue in service till he completes the age of sixty-five years. But vacancies in the Supreme Court are not of frequent occurrence. In comparison with the number of judges who retire every year from the High Courts, probable vacancies in the Supreme Court during the same period are negligible. The disparity in the age of retirement of judges of the Supreme Court and the High Courts result in the retirement of some of the brilliant judges of High Courts who could not be elevated to the Supreme Court due to less number of vacancies in the highest court of the land.

It may be stated that there is no age limit for retirement of High Court judges in other countries and where the age limit exist they are higher than sixty-five years. Even the law Commission has recommended increase in retirement age for judges of High Courts.

To strengthen the morale of the judges in the High Courts it is necessary that age limit for retirement of judges of High Courts should be raised to sixty-five years.

Hence this Bill.

NEW DELHI;
April 12, 2006.

TUKARAM RENGE PATIL

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for increasing the age of retirement of High Court judges including Chief Justice from sixty-two to sixty-five years. It is expected that expenditure will be involved from the Consolidated Fund of India by way of payment of increased pension to retired judges. It is, likely to involve an annual recurring expenditure of about rupees twenty crore. No non-recurring expenditure is likely to be involved.

BILL NO. 55 OF 2006

A Bill to provide for the appointment of a Commission to oversee the administration of the secretarial staff of the House of the People and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the House of the People (Administration) Act, 2006.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “Commission” means the House of the People Commission constituted under section 3 of this Act;

(b) “House” means the House of the People;

(c) “Leader of the House” means the Prime Minister or a member of the Council of Ministers, who, being a member of the House, may be nominated by the Prime Minister for the purposes of this Act;

(d) "Leader of the Opposition" means a member of the House who is recognized by the Speaker as such or his nominee, who shall be a member of the House, and if there is no such leader, then the leader of the party in the Opposition having the largest number in the house;

(e) "Secretarial Staff" means the staff of the House of the People;

(f) "Secretariat" means the Secretariat of the House of the people; and

(g) "Speaker" means Speaker of the House of the People.

3. (1) There shall be constituted a Commission to be known as the House of the People Commission to perform the functions conferred on it by this Act.

Constitution and composition of the Commission.

(2) The Commission shall be appointed by the House on a motion to be moved by the Leader of the House and adopted by the House.

(3) Commission shall consist of the following:—

(a) the Speaker;

(b) the Deputy Speaker of the House;

(c) the Leader of the House;

(d) the Leader of the Opposition; and

(e) three members of the House to be elected by the system of proportional representation by means of a single transferable vote.

4. The Speaker and the Leader of the House shall continue to be the members of the Commission until immediately before the assumption of the office by their respective successors.

Time up to which Speaker and Leader of the House continue as Members of Commission.

5. A member of the Commission other than the Speaker and the Leader of the House shall cease to be a member of the Commission if he ceases to be a member of the House.

Cessation of membership of the Commission.

6. (1) The Speaker shall be the *ex-officio* Chairman of the Commission.

Chairman of the Commission.

(2) While the office of the Speaker is vacant, the Deputy Speaker of the House shall function as the Chairman of the Commission and, if for any reason, the Speaker is unable to act as the Chairman of the Commission, the Deputy Speaker shall act as the Chairman of the Commission.

7. (1) There shall be a Secretary-General of the House who shall be appointed by the President of India on the recommendation of the Commission.

Appointment of Secretary-General.

(2) The Secretary-General shall be appointed from amongst those who have distinguished themselves and made their mark in the service of the House in various capacities in the Secretariat for not less than twenty years.

(3) The Secretary-General shall be the head of the Secretariat.

8. The office of the Secretary-General shall become vacant:—

Vacation and resignation of, and removal from, the office of Secretary-General.

(a) on his attaining the age of superannuation, as may be fixed by the Commission;

(b) on his resignation in writing addressed to the President of India; and

(c) on his removal from office by the President of India in the same manner as is provided for the removal of a judge of the Supreme Court under clause (4) of article 124 of the Constitution.

Functions
of the
Commission.

9. Save as otherwise provided in this Act, the functions of the Commission shall include the following:—

- (a) to frame rules regulating the recruitment, appointment, promotion and other service conditions of the Secretary-General and officers and staff of the Secretariat;
- (b) to adopt such service rules of the Government of India as it may deem fit;
- (c) to appoint officers and staff of the Secretariat;
- (d) to appoint officers and staff on deputation to posts in the Secretariat from other services such as Judicial services or from office of the Comptroller and Auditor General or from State Legislatures;
- (e) to determine the strength of the secretarial staff at various levels and their pay scales and other allowances;
- (f) to ensure that the classification, grading, salaries, allowances and other conditions of service, including pension and other benefits, of the personnel in the Secretariat are kept generally in conformity with those of the personnel in other comparable services in the Government of India and also consistent with the service requirements of the House;
- (g) to consider and decide appeals against the orders of the Speaker or Secretary-General, as the case may be, submitted by the officers and staff of the Secretariat;
- (h) to prepare an estimate for each financial year of the expenses of the services of the House and of any other expenses incurred for the service of the House and lay them before the House;
- (i) to appoint a member of the secretarial staff as "Finance Officer" who will be responsible for accounting for the sums paid out of money provided by Parliament for the service of the House; and
- (j) to exercise all powers necessary to implement the provisions of clause (1) of article 98 of the Constitution of India towards the constitution of a separate, independent and autonomous Secretariat of the House.

Delegation of
Functions of
Commission.

10. (1) The Commission may delegate to the Speaker or Secretary-General any of its functions under this Act.

(2) Anything done by or in relation to a person, to whom functions are delegated under this section, in the discharge of functions of the Commission, shall have the same effect as if it were done by or in relation to the Commission.

(3) Any delegation of functions made by the Commission under this section or any amendment or revocation of such delegation shall be mentioned in the annual report of the Commission made under section 12.

(4) Notwithstanding anything contained in this section, the Commission shall retain the ultimate responsibility for considering any representation made, in relation to matters affecting the interests, in connection with the employment of the secretarial staff, by staff associations who are recognised by the Commission in respect of such staff, and for the conduct of consultations and negotiations, about such matters with those staff associations.

Validity of the
proceedings
of the
Commission.

11. The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission, or by any defect in the appointment or nomination of any member of the Commission.

Annual
Report of the
Commission.

12. The Commission shall, as soon as possible, after the end of every financial year present to the House a report on its functions in that year.

13. (1) The Commission may make rules to regulate its procedure and conduct of its business. Power to make rules.

(2) The Commission may, by notification in the Official Gazette, make rules to regulate recruitment and conditions of service of the secretarial staff.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the House, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule, or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

(4) Any notice of amendment to such rules given by a member shall stand referred to the Commission which shall consider it and make such changes in the rules as the Commission may consider fit.

(5) The final rule made by the Commission after taking into consideration the amendments suggested by the members shall be laid before the House and, thereafter, on the House agreeing to the final rule on a motion made by a member of the Commission, the rule or amendment to a rule, as the case may be, shall be promulgated by the Commission by notification in the Official Gazette.

14. All persons employed in the secretarial staff immediately before the coming into force of this Act, shall be treated, for all purposes, as if their appointment had been made by the Commission. Transitional provisions.

15. All rules, regulations and orders made and in force immediately before the coming into force of this Act, shall be deemed to have been made by the Commission and shall continue to be valid and operative unless modified or revoked by the Commission; so, however, anything contained therein being inconsistent with any provisions of this Act, shall be of no effect and be void to the extent of such inconsistency. Saving.

STATEMENT OF OBJECTS AND REASONS

The concept of an independent Secretariat of Parliament is an essential adjunct of Parliamentary democracy. The significance of this conceptualization of a Secretariat independent of the Executive was fully realized in the 1920s when the then Central Legislative Assembly passed unanimously a resolution moved by Pandit Motilal Nehru and seconded by Lala Lajpat Rai. Later, Vithalbhai Patel ceaselessly endeavoured in this direction.

The independent position of the Secretariats of the Houses of Parliament was recognized by the makers of our Constitution when they considered it necessary to incorporate a separate and exclusive article (article 98) in the Constitution. This article envisages enactment by Parliament of a law to regulate the recruitment and conditions of service of persons appointed to the secretariat staff of the House. The enactment of such a legislation is long overdue.

The unique position of the Lok Sabha Secretariat demands, as it does, a special sense of dedication and impartiality from the secretarial staff in the discharge of their duties and requires a broad-based institutional arrangement representing the House to be statutorily made available to assist the Speaker in watching and safeguarding the interests of the secretarial staff in the service of the House and its members. This institutional arrangement is sought to be made by providing a House of the People Commission.

NEW DELHI;
May 19, 2006.

MOHAN SINGH

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for the constitution of a House of the People Commission. Its members are the members of the House of the People who would be discharging their duties in relation to the Commission as its members. The expenditure towards the payment of their TA/DA, if any, would be a part of the normal expenditure of the House. The increase in the expenditure, if any, as a result of constituting the commission would be a marginal one and that would not be possible to be quantified in specific terms at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill seeks to confer on the Commission the power to make rules for carrying out the purposes of this Act. The matters in respect of which such rules may be made are matters of procedure and administrative details. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 57 OF 2006

A Bill to provide for printing of cost of production and maximum retail price of consumer goods being sold in the market and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Consumer Goods (Mandatory Printing of Cost of Production and Maximum Retail Price) Act, 2006. Short title,
extent and
application.

(2) It extends to the whole of India.

(3) It shall apply to all persons involved in marketing or manufacturing of goods based on either indigenous or imported materials with the intention of offering it for sale in the market.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means the Central Government or a State Government as the case may be;

(b) “consumer goods” mean all goods and items brought in the market for sale and are meant for the use and consumption of the consumers;

(c) "cost of production" means cost incurred directly or indirectly by the manufacturer in the production of goods;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "printing" means printing of the cost of production and retail price at a visible place on the product in Hindi and English and the local language of the place it is sold; and

(f) "maximum retail price" means such price at which the product shall be sold in retail and such price shall include all taxes levied on the product.

Mandatory printing of cost of production and maximum retail price on packaging of consumer goods.

3. No person shall sell or cause to be sold any consumer goods without the cost of production and maximum retail price of the product printed on such product after the expiry of six months from the date of coming into force of this Act.

Provision of complaint against selling of consumer goods for a price more than maximum retail price, etc.

4. (1) any person may file a complaint with the appropriate Government in case a consumer goods is sold at more than the maximum retail price printed on the product or is sold without the cost of production of the product printed on it.

(2) The appropriate Government, on receipt of the complaint from any individual or on its own, shall cause an enquiry made into the complaint.

(3) If, after the enquiry made under sub-section (2), it is found that the provisions of the Act have been violated, the license of the organization responsible for manufacturing the consumer goods as also of the organization selling the consumer goods shall be cancelled forthwith and the person-in-charge of the organization shall be punished with simple imprisonment for a term which shall not be less than one year and with a fine which shall not be less than rupees one lakh.

Act to be given wide publicity.

5. The provision of this Act shall be given wide publicity by the appropriate Government through such media as it may deem fit.

Act not in derogation of any other law.

6. The provisions of this Act shall be in addition to, and not in derogation of any other law, for the time being in force, relating to matters provided in this Act.

Power to make rules.

7. The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

It is generally seen that the prices of consumer goods sold in the markets are determined arbitrarily by the manufacturers. In this process, the manufacturers gain huge profit as the actual manufacturing cost is very low. The consumers' interests are compromised and they are compelled to buy goods at much higher prices in comparison to actual manufacturing cost of goods. Thus, consumers are subjected to economic exploitation.

For example, Potato chips, drinking water, soft drinks, automobiles, medicines, etc. are being sold at a price much higher than their cost price. The manufacturers arbitrarily fix the price and the consumers are compelled to purchase goods at higher costs. If it is made mandatory for the manufacturers to print the actual cost of production of goods along with their maximum retail price it will help to curb the greed of the manufacturers. Such a measure will also help the consumers in making a decision regarding buying the product.

It is the duty of the Government to bring a legislation for protecting the interests of consumers. In the wake of economic liberalisation, it has become essential that the consumers are given the right to know the actual manufacturing cost of the goods they are going to purchase.

It is also in the public interest to make commodities and goods available at fair prices to consumers. The interests of consumers can be protected against the vice of profiteering by making the goods and commodities available to them at a reasonable price.

Hence the Bill.

NEW DELHI;
April 27, 2006.

HANSRAJ GANGARAMJI AHIR

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that appropriate Government shall give wide publicity to the provisions of this Act.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. The State Governments will also incur expenditure from their respective Consolidated Funds. An annual recurring expenditure of about rupees twenty-five crore is likely to be incurred from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 56 OF 2006

A Bill to provide for right to earn livelihood to the tribals and other persons who are dependant on forest produce and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Forest Produce Management Board Act, 2006.
- (2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "dependant" means any person living within or near forest areas and who is entirely dependant on forest produce for his livelihood;

(c) "forest produce" means and includes any of the things found in or removed from any forest such as fruits, flowers, herbs, leaves, gum, honey, barks, *moha* and other such materials;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "processing" means use of forest produce as a raw material to manufacture new products;

(f) "right" means rights conferred upon by the provisions of this Act; and

(g) "tribal" means a person who belongs to a tribe included in the Schedule to the Constitution (Scheduled Tribes) Order, 1950.

3. Subject to the provisions of this Act, every tribal or dependant shall have the right to derive livelihood from forest produce.

Right to derive
livelihood
from forest
produce.

4. Any tribal or dependant may apply to a local Committee of his area set up under section 8, of his intention to sell forest produce after due processing.

Application.

5. (1) The Central Government shall, by notification in the official gazette, set up a Board to be known as the Forest Produce Management Board under the Union Ministry of Environment and Forests for preparing guidelines regarding uses of forest produce.

Forest Produce
Management
Board.

(2) The Board shall be established as a body corporate under this Act having perpetual succession and a common seal.

(3) The Chairman of the Board shall be appointed by the Central Government.

(4) The Board shall have such other members as may be prescribed.

(5) The salaries and other terms and conditions of service of the Chairman and other members of Board shall be such as may be prescribed.

(6) The Board shall have its office in the capital of every State and Union Territory.

(7) The Central Government shall provide to the Board such number of officers and staff as is necessary for the efficient functioning of the Board.

(8) The Central Government, in consultation with the Board, may issue general directives relating to salary payable to the staff, their recruitment, training and other service conditions.

6. (1) The Central Government shall set up a fund to be known as the Forest Produce management Fund for the implementation of the provisions of this Act.

Forest
Produce
Management
Fund.

(2) The Central Government and the State Governments shall contribute to the fund in such proportion as may be prescribed.

(3) The Fund shall be administered by the Board.

7. The Board constituted under section 5 of this Act shall perform the following functions:—

Functions of
the Board.

(i) prepare a list of forest produce available in every State;

(ii) issue licenses for collection, processing, buying and selling of forest produce to tribals/dependants;

(iii) provide financial assistance in the form of either grants or loans at concessional rates of interest to the tribals/dependants for setting up of projects relating to processing of forest produce in such manner as may be prescribed;

(iv) provide marketing facility for the forest produce;

(v) pay compensation to the tribals/dependants sustaining loss in projects approved by the Board in such manner as may be prescribed; and

(vi) perform such other functions as may be assigned to it by the Central Government.

Establishment
of Local
Committee.

8. (1) The appropriate Government shall set up a Local Committee in every district, in consultation with the Board established under section 5 of this Act, to assist the Board in performing the functions relating to forest produce collection, processing, buying and selling.

(2) Every Local Committee shall consist of such number of members as may be prescribed by the appropriate Government.

(3) The appropriate Government shall provide to every local Committee such number of officers and staff as is necessary for the efficient functioning of the Committee.

Functions of
the Local
Committee.

9. Every Local Committee shall perform the following functions:—

(i) prepare a list of forest produce available within the district;

(ii) receive application for obtaining license from any tribal or dependant for setting up of a project for forest produce collection, processing, buying and selling in the district;

(iii) examine and forward the application received under sub-clause (ii) to the Board for granting license or providing financial assistance to set up a project;

(iv) communicate granting of license or rejection of an application for license or financial aid or any other detail sent by the Board to the applicant;

(v) forward application for reconsideration to the Board, if any, for granting of license or financial aid in setting up of a project;

(vi) take up with authority concerned for provision of land, water and power on priority basis to the license holders for setting up of their project;

(vii) inspect every project set up with financial assistance of the Board to ensure proper utilisation of funds released by the Board;

(viii) initiate inquiry against license holders on receipt of complaints of irregularities / misconduct; and

(ix) recommend action against license holders found guilty of irregularities/ misconduct to the Board.

Right to
Appeal.

10. (1) Every applicant whose application for granting of license or financial aid has been rejected, shall have the right to appeal to the Board directly.

(2) The Board shall dispose off the appeal within three months of the receipt of the same.

Penalty.

11. The Board may impose a fine which may extend to rupees one lakh on any person found guilty after an inquiry conducted under clause (viii) of section 9 of this Act.

Power to
make rules.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

STATEMENT OF OBJECTS AND REASONS

The tribals and other persons living in or near forest areas have been earning their livelihood from the forest for centuries. They have been enjoying rights over forest produce traditionally. Earlier the forest areas were supposed to be under the control of society as a whole. During the British period, control over forest areas passed into the hands of the Government. Legislations were enacted to this effect. Such legislations caused adverse impact on the ability of tribals and other persons settled in the forest areas to earn their livelihood. They lost their traditional rights over forest produce.

After independence, the Government of India made various rules to check the massive deforestation and misuse of forest lands. The strict approach of local forest officers made it difficult for those depending on forests to earn their livelihood. Once the Forest (Conservation) Act, 1980 was brought into effect, it became difficult for people living in or around forest areas to exploit forest produce for their livelihood. Such tribal people are poor and they are not in a position to earn their livelihood from any other source. It is the duty of the Government to provide self-employment to such people who live in or around forest areas. They should be permitted to carry on their traditional occupation which is based on processing of forest produce. Enabling them to start their own forest based processing plants, industries, etc. through financial assistance by the Government is the only way to bring these under privileged sections into the mainstream of the society. It will also help in eradicating problems of poverty, unemployment and malnutrition in tribal areas. It is necessary that the traditional rights of the tribals over forest produce be restored.

Hence this Bill.

NEW DELHI;
May 9, 2006.

HANSRAJ GANGARAMJI AHIR

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the setting up of the Forest Produce Management Board. Clause 6 provides for the setting up of the Forest Produce Management Fund to which the Central Government and State Governments shall contribute in such ratio, as may be prescribed. Clause 8 of the Bill provides for establishment of local committees to assist the Board in performing the functions relating to forest produce collection, processing, buying and selling in every district. The expenditure relating to States shall be met out of the Consolidated Fund of the States concerned. The expenditure in respect of Union territories shall be met out of Consolidated Fund of India.

The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees five hundred crore. A non-recurring expenditure of about rupees fifty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

P.D.T. ACHARY,
Secretary-General.